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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,145	07/03/2003	Rie Yamane	239928US90	3348

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EXAMINER

BOLDEN, ELIZABETH A

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 01/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/612,145	Applicant(s) YAMANE ET AL.	
	Examiner Elizabeth A. Bolden	Art Unit 1755	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 October 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 and 10-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17-22 is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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### DETAILED ACTION

Any rejections and or objections, made in the previous Office Action, and not repeated below, are hereby withdrawn.

#### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4-7, and 10-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamashita, U.S. Patent 4,303,298.

Yamashita teaches a near infrared absorption glass filter in terms weight percent. See abstract, column 1, lines 34-50. Yamashita teaches that the glass does not need to contain the optional component, PbO. See Abstract, column 3, lines 62-66, examples 1-21, 23, and column 6, lines 13 and 30. Yamashita teaches that the optical glass show a transmittance curve wherein the glass transmits in the visible region and absorbs in the near IR region. See abstract, Figure 1, and column 2, lines 52-60.

Yamashita fails to teach any examples or compositional ranges that are sufficiently specific to anticipate the compositional and property limitations of claims 1, 2, 4-7, and 10-16. Yamashita does not teach the glass in terms of cation percent. However, it is believed that the weight percent ranges disclosed by Yamashita if converted to cation percent would have overlapping compositional ranges with instant claims 1, 2, 4-7, and 10-16. See column 1, lines 41-50. Overlapping ranges have been held to establish *prima facie* obviousness. MPEP 2144.05.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have selected from the overlapping portion of the ranges disclosed by the reference because overlapping ranges have been held to establish *prima facie* obviousness. See MPEP 2144.05.

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One of ordinary skill in the art would expect that a glass with overlapping compositional ranges would have the properties recited in claims 4-7 and 16.

Claims 1-8 and 10-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oguma et al., U.S. Patent 5,668,066.

Oguma et al. teach a near infrared absorption glass filter. See abstract, column 1, lines 50-64. Oguma et al. teach that the glass does not need to contain the optional components PbO or As<sub>2</sub>O<sub>3</sub>. See column 3, lines 19-20 and column 4, lines 6-8. Oguma et al. teach that the optical glass show a transmittance curve wherein the glass transmits in the visible region and absorbs in the near IR region. See abstract, Figure 1, and column 5, lines 22-32. Oguma et al. teach that the glass has a liquidus temperature less than 900°C.

Oguma et al. fail to teach any examples or compositional ranges that are sufficiently specific to anticipate the compositional and property limitations of claims 1-16. Oguma et al. do not teach the glass in terms of cation percent. However, it is believed that the weight percent ranges disclosed by Oguma et al. if converted to cation percent would have overlapping compositional ranges with instant claims 1-16. See column 1, lines 50-62. Overlapping ranges have been held to establish *prima facie* obviousness. MPEP 2144.05.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have selected from the overlapping portion of the ranges disclosed by the reference because overlapping ranges have been held to establish *prima facie* obviousness. See MPEP 2144.05.

### ***Response to Arguments***

Applicant's arguments, see page 9, filed 21 October 2005, with respect to the rejection over Oguma, U.S. Patent 6,225,244 have been fully considered and are persuasive. The rejection of claims 7,9,12,15, and 16 over '244 has been withdrawn.

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Applicants' arguments filed 21 October 2005 have been fully considered but they are not persuasive.

In regards to the rejection over Yamashita U.S. Patent 4,303,298, Applicants argue that the glass of Yamashita does not teach a glass that does not contain PbO or As<sub>2</sub>O<sub>3</sub>. This is not found persuasive since Yamashita teaches that the glass does not need to contain the optional component, PbO. See Abstract, column 3, lines 62-66, examples 1-21, 23, and column 6, lines 13 and 30. Additionally, Yamashita does not mention the use of As<sub>2</sub>O<sub>3</sub> as a compositional component.

Applicants further argue that the compositional ranges of Yamashita do not overlap the compositional ranges of the instant invention. This is not deemed persuasive since the applicants show no evidence that if the compositional ranges of Yamashita which are taught in terms of weight percent do not overlap the instantly claimed glass in terms of cation percent.

In regards to the rejection over Oguma et al., U.S. Patent 5,668,066, Applicants argue that the glass of Oguma et al. do not teach a glass that does not contain PbO or As<sub>2</sub>O<sub>3</sub>. This is not found persuasive since Oguma et al. teach that the glass does not need to contain the optional components PbO or As<sub>2</sub>O<sub>3</sub>. See column 3, lines 19-20 and column 4, lines 6-8.

Applicants further argue that the compositional ranges of Oguma et al. do not overlap the compositional ranges of the instant invention. This is not deemed persuasive since the applicants show no evidence that if the compositional ranges of Oguma et al. which are taught in terms of weight percent do not overlap the instantly claimed glass in terms of cation percent.

***Allowable Subject Matter***

Claims 17-22 are allowed.

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***Reason For Allowance***

The following is a statement of reasons for the indication of allowable subject matter:

The prior art fail to disclose or suggest a copper-containing glass comprised of either a fluorophosphates glass or phosphate glass, which comprises copper (CuO), iron (Fe<sub>2</sub>O<sub>3</sub>), antimony (Sb<sub>2</sub>O<sub>3</sub>) and no arsenic.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth A. Bolden whose telephone number is 571-272-1363. The examiner can normally be reached on 9:30 am-6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on 571-272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**\*\* Please note that the Examiner, Elizabeth A. Bolden will be out of the office for an extended period of time starting on 19 January 2006 and returning approximately 27 February 2006. You can leave me a voicemail message, which I will try to check intermittently, otherwise please contact my supervisor Jerry Lorengo at the above telephone number. Sorry for this inconvenience. \*\***

EAB

18 January 2006

  
**KARL GROUP**  
**PRIMARY EXAMINER**  
**GROUP 1755**